

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

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Tac Pro, Inc.

TAC PRO, INC.,

Plaintiff,

Case No.:

**ROCKWOOD CORPORATION D/B/A
SPEEDWELL TARGETS**

ABC CORPS 1-10

Defendants.

I. NATURE OF SUIT

1. The Plaintiff TacPro, Inc. demands a jury trial and complains against the Defendants Rockwood Corporation D/B/A Speedwell for Patent and Copyright Infringement. Plaintiff seeks monetary relief for willful Patent & Copyright Infringement under the Patent Laws 35 USC § 271 *et seq.* and the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

II. PARTIES

1. The Plaintiff TacPro, Inc. (hereinafter referred to as "TACPRO"), is a corporation organized and existing under the laws of Ontario Canada having a principal place of business located at 14 Essex Ave. Unit 30, Thornhill, ON L3T 3Z1, CANADA.

2. Upon information and belief, Rockwood Corp. D/B/A Speedwell Targets. (hereinafter referred to as "SPEEDWELL") is a business organized under the laws of the New Jersey having a place of business located at Speedwell Targets, 410 Clermont Terrace, Suite D, Union, NJ 07083. SPEEDWELL makes, uses, and/or sells or has sold patented and copyrighted products in interstate commerce and in this judicial district. *Exhibit "A".*

III. JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States of America, Title 35 of the United States Code and Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

2. This Court has jurisdiction of this action under including 35 U.S.C. §271 *et seq.*,
17 U.S.C. § 101 *et seq.*, and 28 U.S.C. §§1331 and 1338(a).

3. Personal jurisdiction exists generally over the Defendant because each Defendant is located within, incorporated within or has sufficient minimum contacts with the forum as a result of business regularly conducted within the State of New Jersey. Personal Jurisdiction also specifically exists over Defendant as a result of, at least, Defendant's incorporation and distribution network wherein Defendants, individually and/or collectively, placed instrumentalities that display and practice the claimed invention of United States Patent No. 5,593,162 (Exhibit "B") and United States Copyright No. TX 7-79-520 (Exhibit "C") owned by

the Plaintiff, within the stream of commerce, which stream is directed at this district, and by committing the torts of patent and copyright infringement within the District of New Jersey

4. Venue is proper in this Court under 28 U.S.C. §§ 1391 as well as 28 U.S.C. § 1400(b).

IV. PATENT INFRINGEMENT

1. On November 28, 1995, U.S. Patent No. 5,593,162, hereinafter referred to as the “162 patent” as attached hereto as Exhibit B, duly and legally issued to Steven E. Minuskin for an invention entitled “Target Device” (the Patent). The Patent was in full force and effect at the time of the alleged infringement and a copy of the ‘162 patent is attached hereto as *Exhibit B*.

2. TACPRO is the assignee of the '162 Patent and the owner of all right title, and interest in and to the '162 patent.

3. In contravention to 35 U.S.C. §§271(a)(b) and (c), Defendant have infringed and willfully and deliberately infringed the ‘162 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use sell, and/or offer to sell products including but limited to the “Tactical Ted 3-D Human Target.” *See Exhibit E.* Such acts of infringement have occurred from the January 2008 until at least June 5, 2015 without the authority or license of Plaintiff. Id.

4. Plaintiff's product as compared to Defendant's product as shown in Exhibit F.

5. TACPRO has been damaged by the infringing activities of Defendants complained of herein.

V. COPYRIGHT INFRINGEMENT

1. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-5 above.

1 2. SPEEDWELL infringed Plaintiff's United States Copyright No. TX 7-79-520,
2 the '520 Copyright and attached hereto as Exhibit C, in the advertisement of Plaintiff's patented
3 item by reproducing and publicly displaying the Plaintiff's photographs on Speedwell's Website,
4 Catalog, and the General Services Administration (GSA) online website/catalog. *See Exhibit D.*
5 SPEEDWELL is not, and has never been, licensed or otherwise authorized to reproduce, publicly
6 display, distribute and/or use the photograph of Plaintiff's patented and copyrighted product.

7 3. Plaintiff's product as compared to Defendant's product as shown in Exhibit F.

8 4. The acts of Defendant complained of herein constitute infringement of Plaintiff's
9 copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the
10 Copyright Act, 17 U.S.C. §§ 106 and 501.

12 5. Upon information and belief, the foregoing acts of infringement by SPEEDWELL
13 have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's
14 rights.

15 6. As a direct and proximate cause of the infringement by the Defendant of
16 Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover her
17 damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

19 7. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work
20 infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

21 8. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17
22 U.S.C. § 505.

VI. PRAYER FOR RELIEF

WHEREFORE, TACPRO prays for judgment against Defendant as follows:

- A. That one or more of the claims of '162 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant and or by others to whose infringement as been contributed to by Defendant and/or by others whose infringement has been induced by Defendant;
- B. That, pursuant to 17 U.S.C. §502, preliminary and final injunctions be issued enjoining Defendant, its officers, agents, servants, employees and all those persons in active concert or participation with them from further infringement of the Plaintiff's Copyright;
- C. That, pursuant to 35 U.S.C. §§ 284 286, Defendant account for damages for all past infringement from January 1, 2008 to June 5, 2015, including treble damages because of the willful nature of such infringement;
- D. That Defendant Render be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
- E. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
- F. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

1 G. That Plaintiff's be granted pre-judgment and post-Judgment interest at the
2 maximum rate allowable by law on the damages caused by reason of
3 defendants infringing activities complained herein;

4 H. That, pursuant to 17 U.S.C. §505, TACPRO be awarded costs, attorney's fees,
5 and expenses incurred in connection with this action; and

6 I. That TACPRO be granted such other and further relief as this Court deems just
7 and proper, and equitable.

8 **V. DEMAND FOR JURY TRIAL**

9 The Plaintiff, TACPRO, demands a trial by jury of all issues property triable by jury in
10 this action.

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15 Dated: November 29, 2017
16 Nutley, NJ